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106TH CONGRESS
1ST SESSION

S. 252

To prohibit the recoupment of medicaid-related funds recovered from one or more tobacco companies.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. VOINOVICH introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To prohibit the recoupment of medicaid-related funds recovered from one or more tobacco companies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) A commitment to the responsibility that Governors and other State officials have for the well-being of their citizens motivated the decision by 41 States, commonwealths and territories to initiate lawsuits against the tobacco industry that predicated

the national settlement negotiated by State Attorneys General in November of 1998.

(2) State litigation against the tobacco industry is based on the enforcement of State laws and rights, including consumer protection laws, antitrust violations, and unjust enrichment, among others. Lawsuits aimed at reducing youth smoking, securing the public disclosure of tobacco documents, and other goals did not seek only to recover State health care costs.

(3) Some State claims do not include any health care claims or provisions for the recovery of health care costs.

(4) The States' Attorneys General carefully crafted the November, 1998 agreement to reflect only State costs. States sought injunctive relief, civil penalties, disgorgement of profits, and other appropriate remedies.

SEC. 2. PROHIBITION ON TREATING ANY FUNDS RECOVERED FROM TOBACCO COMPANIES AS AN OVERPAYMENT FOR PURPOSES OF MEDICAID.

(a) AMENDMENT TO SOCIAL SECURITY ACT.—Section 1903(d)(3) of the Social Security Act (42 U.S.C. 1396b(d)(3)) is amended—

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(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following:

"(B) Subparagraph (A) and paragraph (2)(B) shall not apply to any amount recovered or paid to a State as part of the comprehensive settlement of November, 1998 between the tobacco industry and State Attorneys General, or as part of any individual settlement or judgment reached in litigation initiated or pursued by a State against one or more manufacturers of tobacco products, as defined in section 5702(d) of the Internal Revenue Code of 1986.".

(b) LIMITATION.—Amounts recovered or paid to a State as part of the comprehensive settlement of November, 1998 between the tobacco industry and State Attorneys General, or as part of any individual settlement or judgment reached in litigation initiated or pursued by a State against one or more manufacturers of tobacco products, as defined in section 5702(d) of the Internal Revenue Code of 1986, may not be used by a State to draw down funds under a State medical assistance plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to amounts recov-

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ered or paid to a State prior to, on, or after the date of enactment of this Act.

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